

PART III - VARIANCES

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RULE 301 VARIANCES AUTHORIZED

- A) The Board may preliminarily approve variances from the strict application of the substantive requirements established in this Regulation, except for SPNSS and NESHAPS.**
- B) Standards for Granting Variances**
 - 1. No variance shall be preliminarily approved by the Board unless the applicant demonstrates that:**
 - a) The variance will not cause or contribute to cause air pollution in violation of any NAAQS, or in the case of non-attainment areas, will not exacerbate any existing violation of the NAAQS;**
 - b) Compliance with the rules and regulations would produce practical difficulties or hardships without equal or greater benefits to the public or to the betterment of air quality;**
 - c) The owner or operator of the source for which a variance is sought has made efforts to control or prevent the conditions which may have prompted the variance request;**
 - d) The public health, safety, and general welfare are not threatened;**
 - e) A public notice has been issued, in accordance with Rule 111 pertaining to the variance request, and an opportunity for public hearing has been offered therewith;**
 - f) The variance shall not cause or contribute to an air pollution emergency, nor shall it prevent or limit the application of the emergency emissions reductions provisions or Rule 107; and**
 - g) An application for a location approval, permit to construct, or permit to operate, whichever applicable, has been submitted.**
 - 2. No variance shall be deemed approved until it has been approved by the US-EPA.**

C) Pre-application Conference

Before filing an application for a variance, the applicant or his authorized agent shall first confer in person with the Board or its staff.

D) Application

1. Each application for a variance dispensation shall include the following:
 - a) information on the nature and location of the source for which the variance is requested;
 - b) the reasons for which the variance is requested, including scientific and economic justification;
 - c) the type and quantity of emissions that will occur during the period of variance;
 - d) a description of the interim control measures that shall be taken by the source to minimize emissions, and of the possible damage occurring if these measures are not taken;
 - e) any other information the Board deems necessary to make a determination regarding the variance application;
 - f) a certification that the filing fee and 25 percent of the excess emissions fee, as prescribed by the Board under Rule 502, have been deposited;
 - g) information sufficient to demonstrate that the variance will neither cause nor contribute to air pollution in excess of any NAAQS.
2. Air quality estimated concentrations shall be based on the applicable air quality dispersion models, data bases, and other requirements specified in USEPA Publication No. 1, 2-080 (QAQPS), "Guidelines on Air Quality Models", or on any other dispersion models approved by USEPA. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (USEPA: April, 1977) should be used to determine the comparability of air quality models.
3. The application shall specify each regulatory provision from which the variance would grant relief, and shall specify the nature and extent of such relief.

E) Action on Application

1. The Board shall act within reasonable time upon submittal of a completed

variance application, but, under normal circumstances, not later than 60 days after the conclusion of any public comment period or public hearing.

2. The Board shall notify the applicant in writing of its decision in regard to variance application. In its notice, the Board shall set forth the reasons for its decision.

F) Conditions on Preliminary Approval of Variances

1. The Board may impose any reasonable conditions upon its preliminary approval of a variance, the Board shall condition its issuance upon the payment of the remaining excess emission fee.

G) Period of Validity

A variance shall be valid for the period determined by the Board, but not to exceed 3 years. For extension of a variance, the owner or operator of the source shall, at least 90 days before its expiration, file an application for a new variance. The Board shall thereafter take action on such application, applying the rules and regulations applicable at such time.

RULE 302 EMERGENCY VARIANCE

- A) The Board may grant emergency variances only under very special circumstances, e.g., to avoid an imminent health threat.

B) Application

1. Every application for an emergency variance shall include:
 - a) Detailed information about the source for which the emergency variance is requested;
 - b) The reasons that have prompted the emergency variance request;
 - c) Detailed information about the air pollutant which is being or will be excessively emitted, specifying its toxicity and physical characteristics.
 - d) Any other information the Board deems necessary to evaluate the application.
2. In case the application is made other than in writing, a written application shall be filed within 24 hours of the original request.

C) Action on Applications

The Board shall act as expeditiously as practicable on every application for an emergency variance and shall notify EPA of its grant of an emergency variance.

D) Conditions

1. The Board may impose any reasonable conditions on granting an emergency variance including interim control measures to minimize adverse air quality impact.
2. In case the emergency variance is granted on the ground that excess emissions are warranted to avoid an imminent health hazard, or to exhaust a toxic air pollutant, the Board may require that a contingency plan be prepared and submitted by the owner or operator of the source within 30 days after the emergency variance was granted.

E) Period of Validity

The period of validity of any emergency variance shall be determined on a case-by-case basis, but in no case shall it exceed 90 days.